IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 9253 of 2007(B)

PETITIONER:

BHAGYACHANDRAN M.,
S/O.VELAYUDHAN NAIR, U.P.S.A.,
AYYAPPAN EZHUTHACHAN AIDED U.P.B. SCHOOL,
RAMANATTUKARA, KOZHIKKODE DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE.

2. THE ASSISTANT EDUCATIONAL OFFICER,
FEROKE, KOZHIKODE DISTRICT.

3. THE MANAGER,
AYYAPPAN EZHUTHACHAN AIDED U.P.B. SCHOOL,
RAMANATTUKARA, KOZHIKODE DISTRICT.

BY GOVERNMENT PLEADER SRI.T.T.MUHAMOOD
SRI.K.D.BABU
SRI.T.VENUGOPALAN (ALUVA)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the private complaint filed by one Balachandran against the petitioner and another before the JFCM, Malappuram as CMP No.8613/05 dated 29/10/2005.

Ext.P2: True copy of the order of the first respondent as No.B3-3102/07 dated 12.3.2007.

// True copy //

P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)No.9253 OF 2007

Dated this the 18th day of June, 2007

JUDGMENT

Petitioner who is working as Upper Primary School Assistant in the school under the management of respondent no.3 has preferred this writ petition impugning Ext.P2 order issued by respondent no.1 directing the manager to place the petitioner under suspension since he has been implicated in a criminal case against him.

2. It is admitted by the petitioner that a private complaint had been filed against him by the brother of his father-in-law before the Judicial Magistrate of First Class, Malappuram alleging offences punishable under Section 341, 427, 447, 308, 120B read with Section 34 IPC. Grievance of the petitioner is that the impugned order has been issued by respondent no.1 only for the reason that the complaint against him had been taken on file. The specific allegation is that Ext.P2 order had been issued on the basis of a petition filed by the complainant before respondent no.1. Petitioner further alleges that the manager had followed the dicta t of respondent no.1 without any application of his mind.

Petitioner has raised a further contention that Ext.P1 complaint is filed against the petitioner as a counter case against the main case. Anyhow, I do not propose to deal with the above contentions at this stage.

3. Learned Government Pleader submits that the action was taken against the petitioner since the criminal complaint against him had been taken on file after taking cognizance. The above view taken by the respondents cannot be justified. The mere fact that a criminal complaint has been taken on file by the court against a teacher need not necessarily mean that he should be placed under suspension. Such a drastic step can be taken only in accordance with the provisions contained in the relevant rules in Kerala Education Rules.

In the above circumstances Ext.P2 is quashed. It is however made clear that it will be open to respondent no.3 to take appropriate action against the petitioner, if so warranted, in accordance with law. Writ petition is disposed of as above.

A.K.BASHEER, JUDGE

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